

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BILLY RAY HILL §
v. § CIVIL ACTION NO. 6:04cv474
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Billy Ray Hill, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Hill challenged three disciplinary cases which he received, two for sexual misconduct and one for fighting without a weapon. The Magistrate Judge ordered the Respondent to answer the petition and received and reviewed copies of the state records. On June 23, 2005, the Magistrate Judge issued a Report recommending that Hill's petition be denied. Hill filed objections to the Magistrate Judge's Report on July 11, 2005.

Hill's objections are devoted largely to re-urging the claims presented in his original petition. He does contend that exhaustion of administrative remedies may be done only by presenting claims at the Step Two grievance appeal proceeding, even without having presented them in his Step One grievance. He also argues that Captain Jock "knew" that he was in an incompetent state of mind, even though he said nothing about this at the disciplinary hearing, and that the preponderance of the evidence supported his contentions because the hearing officer "ignored" his witnesses. Hill's objections have no merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the answer filed by the Respondent, the state records, the Report of the Magistrate Judge, the Petitioner's objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 23rd day of August, 2005.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**